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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,286	12/08/2000	Allan A. James	60366	2977

109 7590 06/04/2002

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
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EXAMINER
SERGENT, RABON A

ART UNIT	PAPER NUMBER
1711	10

DATE MAILED: 06/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/733,286	Applicant(s) James et al.
	Examiner Rabon Sergent	Art Unit 1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Mar 5, 2002*.

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *17-19, 21-25, and 33-45* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *17-19, 21-25, and 33-45* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). *8*
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

1. Claims 17-19, 21-25, and 33-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the language, "at least about" and "no more than about", renders the claims indefinite, because it is unclear to what extent the values are definitively limited by "at least" and "no more than", when coupled with "about", since "about" modifies a value to extend beyond the numerically recited value.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 17, 18, 21-25, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 96/22182.

The reference discloses reaction injection molded polyureas which contains jojoba oil in the instantly claimed amounts. Since the reference discloses compositions which are derived from components and amounts which meet the claims, the position is taken that one would logically expect the compositions to inherently meet the anti-blistering characteristics of the instant compositions.

4. Applicants argument that the instant claims utilize amounts of jojoba oil which are clearly outside the preferred ranges of WO 96/22182 is without merit. The range within the reference, cited by applicants, is based on the weight of the internal mold release composition. This basis is not equivalent to the basis utilized by applicants within their claims; applicants' basis is essentially the weight of the A-side of the composition. Therefore, when one calculates the content of jojoba oil within the examples of the reference, based on the weight of the A-side, the content of jojoba oil is 1.53 % by weight. This value fully meets applicants' claimed value.

5. Claims 19, 33, 34, and 36-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/22182 in view of Barron et al. ('681).

As aforementioned within paragraphs 3 and 4, the primary reference discloses polyurea compositions containing jojoba oil in amounts which applicants claim.

6. However, the primary reference fails to specifically recite the production of automobile parts and the addition of polyepoxide to the polyureas. With respect to the former difference, Barron et al. disclose that automobile parts are fabricated from polyurea RIM compositions. See column 1, lines 24-26. The use of RIM methods to produce automobile components was, in fact, conventional at the time of invention. Therefore, it would have been obvious to produce automobile parts utilizing the RIM method of WO 96/22182. With respect to the latter difference, the addition of polyepoxide to polyurea compositions, suitable for use in RIM methods, was known at the time of invention as an effective means for decreasing the formation of blisters resulting from exposure to moisture and elevated temperatures. This position is fully supported by the teachings of Barron et al. Therefore, it would have been obvious to incorporate polyepoxide into the compositions of the primary reference for the art recognized function of decreasing blistering within polyureas.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (703) 308-2982.

RABON SERGENT
PRIMARY EXAMINER

R. Sergent

June 1, 2002